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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,820	03/04/2004	Naoto Watanabe	03500.017940	3654

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EXAMINER

BEAUCHAINE, MARK J

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,820

Applicant(s)

WATANABE ET AL.

Examiner

Mark J. Beauchaine

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 8 and 10 is/are allowed.
- 6) ☒ Claim(s) 7, 9, 11-13 and 15 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office action is in response to Applicant's amendment dated 6 January 2006 in response to Office action dated 7 October 2005. Per said Office action, Claims 7 and 11 were rejected under 35 USC §112, second paragraph as being indefinite, and claims 1-15 were rejected under 35 USC §103.

Applicant has amended claims 7 and 11 to address said rejection under 35 USC §112. Accordingly, said rejection is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 9, 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patent Number US 6494,453 B1 by Yamada et al (hereinafter "Yamada"). The ejection tray configuration disclosed by Yamada incorporates tray 1, tray 2, ejector rollers 9 and CPU 102 that read on the Applicant's first tray, second tray, outlet and controller, respectively. Yamada further discloses two standby positions (one above tray 1 and the other below tray 2) that read on the Applicant's standby positions. Although Yamada fails to specifically state that the distance between the ejector rollers

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9 (outlet) and the top surface of sheets stacked in tray 2 is a predetermined distance, it does disclose a sensor SN10 that “detects the position of ejection tray 2” (column 9, lines 34 plus) at the retraction position of said tray. Since the sensor SN10 is stationary, it would have been obvious to one of ordinary skill at the time of the invention to stop said tray at a predetermined distance from the rollers 9 (outlet).

Regarding claim 7, Yamada further discloses sensor SN6, motor 31, sensor SN7, sensor SN10 and CPU 102 that reads on the Applicant's sheet surface detecting device, height control means, retracted position detecting means, movement distance detecting means and retraction controlling means, respectively.

Regarding claim 12, said patent further discloses sensor SN9 that reads on the Applicant's pre-lower-limit detecting means.

Response to Arguments

Applicant's arguments (see page 11, line 11-13, and page 12 lines 3 and 4), filed on 6 January 2006, with respect to claims 1-6, 8, 10 and 14 have been fully considered and are persuasive. The rejection of claims 1-6, 8, 10 and 14 has been withdrawn.

Regarding claims 7, 9, 11-13 and 15, Applicant's arguments have been fully considered but they are not persuasive. The Applicant asserts that Yamada fails read on said claims because it fails to teach or suggest a “movement distance detecting means that detects a movement distance of the stack tray driven by the drive device to the retracted position in combination with retraction control means that causes a stack

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tray to stop when the movement distance detecting means has detected that the stack tray has moved from the stacking position already obtained to a position where either the stack tray or the sheets on the stack tray are detected by the retracted position detecting means.”

Despite the Applicant's assertion Yamada discloses the combination of sensor SN8 that detects tray 2 as it moves the distance from the stacking position and the retracted position. Yamada further discloses said sensor SN8 operated in combination with controller 100 that causes tray 2 to stop when sensor SN8 detects tray 2 in the retracted position. The sensor SN8, tray 2 and controller 100 read on the Applicant's movement distance detecting means, stack tray and controlling means, respectively. Although Yamada fails to disclose sensor SN8 detecting sheets on tray 2 it does detects tray 2 itself, and thus, reads on the Applicant's claims.

Allowable Subject Matter

Claims 1-6, 8 and 10 are allowed. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark J. Beauchaine whose telephone number is (571)272-6934. The examiner can normally be reached on 8:00AM through 5:00PM Mondays through Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571)272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mjb



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